

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

GERRY E. BINGAMAN, *et al.*,

Plaintiffs

v.

C-1-01-707

THE PROCTER & GAMBLE COMPANY,

Defendant

ORDER

This matter is before the Court upon the Report and Recommendation of the United States Magistrate Judge (doc. no. 36), plaintiffs' objections (doc. no. 37) and defendant's response (doc. no. 38). The Magistrate Judge concluded that plaintiffs failed to produce sufficient evidence to support their claims of disability discrimination in violation of the Americans with Disability Act ("ADA"), 42 U.S.C. § 12101 *et seq.* and Ohio Rev. Code Ann. § 4112.02, age discrimination in violation of the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. § 621 *et seq.* and Ohio Rev. Code Ann. § 4112.02, violations of § 510 of the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1140, and intentional infliction of emotional distress under common law. The Magistrate Judge therefore recommended that defendant's Motions for Summary Judgment (doc. nos. 20 and 21) should be granted and this case be dismissed and terminated on the docket of this Court.

Plaintiff objects to the Judge's Report and Recommendation on the grounds that his findings are contrary to law and genuine issues of material facts are demonstrated in the record that preclude summary judgment. As an example, plaintiffs point out the Magistrate Judge reports that plaintiffs were employed by defendant for nearly 20 years when in fact, plaintiffs were employed by defendant for over 23 years.

Upon a *de novo* review of the record, especially in light of plaintiffs' objections, the Court finds that plaintiffs' objections have either been adequately addressed and properly disposed of by the Judge or present no particularized arguments that warrant specific responses by this Court. The Court finds that the Magistrate Judge has accurately set forth the controlling principles of law and properly applied them to the particular facts of this case and agrees with the Judge.

Accordingly, the Court hereby **ADOPTS AND INCORPORATES HEREIN BY REFERENCE** the Report and Recommendation of the United States Magistrate Judge (doc. no. 36). Defendant's Motions for Summary Judgment (doc. nos. 20 and 21) are **GRANTED**. This case is **DISMISSED AND TERMINATED** on the docket of this Court at plaintiffs' cost.

IT IS SO ORDERED.

s/Herman J. Weber
Herman J. Weber, Senior Judge
United States District Court